

Vocational Rehabilitation Services under the Nebraska Workers' Compensation Law



Who is eligible to receive vocational rehabilitation services?

When, as a result of an injury covered under the Nebraska Workers' Compensation Act, an employee is unable to perform suitable work for which he or she has previous training or experience, the employee is entitled to such vocational rehabilitation services, including job placement and retraining, as may be reasonably necessary to restore him or her to suitable employment.

How can I request vocational rehabilitation services?

If, as a result of a job related injury, you are unable to return to your previous job or to employment for which you have had previous training or experience, you may contact your employer or his or her insurer and request vocational rehabilitation services. If the employer/insurer does not agree to the need for vocational rehabilitation or approve the selection of a vocational counselor, you can contact the Workers' Compensation Court's Vocational Rehabilitation section and request a vocational rehabilitation counselor to be assigned by the court.

What vocational rehabilitation services are available to me?

The goal of vocational rehabilitation is to assist the employee to return to suitable employment as soon as possible. Return to work with your previous employer or to employment for which you have training or work experience is emphasized, and direct job placement and on-the-job training is given first consideration. Your rehabilitation counselor will work closely with you to determine the most efficient way to return you to suitable employment. The following priorities must be followed when the counselor is evaluating, developing, and implementing a proposed rehabilitation plan (listed in order from lower to higher priority):

- (a) Return to previous job with the same employer;
- (b) Modification of the previous job with the same employer;
- (c) A new job with the same employer;
- (d) A job with a new employer; or
- (e) A period of formal training which is designed to lead to employment in another career field.

After a proposed plan is developed, it must be approved by a rehabilitation specialist of the court and agreed to by the employer/insurer. If the plan is not approved or agreed to, a petition (lawsuit) can be filed with the court.

How will my vocational rehabilitation counselor be selected?

Either you or the employer/insurer may propose the initial selection of a vocational rehabilitation counselor. Both parties shall attempt to agree to the selection of the vocational rehabilitation counselor. If the parties are unable to agree to the selection of the counselor, either party may request, in writing, that the court assign a vocational rehabilitation counselor from the list of certified vocational rehabilitation counse-

lors maintained by the court. Only **one** vocational rehabilitation counselor may provide vocational rehabilitation services at any one time. Also, either party may request a change of vocational rehabilitation counselor. Any change in the choice of a vocational rehabilitation counselor shall be approved by the court.

Who pays for vocational rehabilitation services?

When participating in a vocational rehabilitation plan approved by the court, your weekly temporary benefits and medical costs will continue to be paid by your employer/insurer. The fee for evaluation and for the development and implementation of the vocational rehabilitation plan will be paid by your employer/insurer. The required costs of the approved vocational rehabilitation plan such as transportation, tuition, books/supplies, and if required, the reasonable costs of room and board will be paid from the Workers' Compensation Trust Fund administered by the court. All expenses must have prior approval from one of the court's vocational rehabilitation specialists. **Note!** Some costs, for example childcare services, **are not covered** by the Workers' Compensation Trust Fund.

Do I have the right to accept or decline vocational rehabilitation services?

Yes. Vocational rehabilitation services are voluntary. However, if without reasonable cause, you refuse to undertake or fail to cooperate with vocational rehabilitation services approved by the court as suitable, or you refuse to be evaluated or fail to cooperate in such evaluation, a judge of the compensation court may suspend, reduce or limit the compensation otherwise payable to you.

Can I exchange my rights to vocational rehabilitation services for a lump sum settlement?

No. You cannot waive your rights to vocational rehabilitation services in exchange for money. A lump sum settlement is an agreement to settle your workers' compensation benefits for a lump sum of money. If you have any questions about lump sum settlements, contact your attorney or the court.

If I accept vocational rehabilitation services, what are my responsibilities?

You must cooperate and take an active role in any vocational evaluation and, if needed, the development of a vocational rehabilitation plan to assist you in returning to suitable employment. Some of the responsibilities will include:

- Cooperating with reasonable evaluation and rehabilitation efforts directed toward assisting your return to suitable employment;
- Accepting a valid offer of suitable employment from your previous employer, or a new employer;
- Informing your counselor and employer/insurer of any problems which may interfere with your participation in vocational rehabilitation evaluations or services;
- Keeping your counselor, employer/insurer and the court's rehabilitation specialist advised of any change in address or telephone number;
- Providing the court with any requested information;
- Notifying one of the court's rehabilitation specialists if you discontinue your approved rehabilitation plan.

Should you fail to meet your responsibilities during vocational rehabilitation, your vocational rehabilitation services may be terminated.

If I accept vocational rehabilitation services, what are my rights?

- To request a preliminary evaluation of your need and ability to benefit from vocational rehabilitation services;

- To agree or disagree with the employer/insurer upon the selection of a vocational rehabilitation counselor;
- To participate in the development of a rehabilitation plan;
- To accept or reject any proposed vocational rehabilitation plan or rehabilitation services;
- To file a motion or petition (lawsuit) with the court to resolve any dispute.

What if I disagree with the vocational rehabilitation plan?

You have the right to participate in the development of your vocational rehabilitation plan. If you disagree with the plan developed by the vocational rehabilitation counselor, you do not have to sign or agree to the plan. You should state your reason why you disagree with the plan. While your counselor may still present the proposed plan to the court's Vocational Rehabilitation section, you have the right to disagree with the plan. *Note!* If you have agreed to and signed the plan, but the employer/insurer denies the plan, you can file a petition (lawsuit) with the court. You may also file a motion or petition if the plan is disapproved by the court's Vocational Rehabilitation section.

Do I need an attorney to receive workers' compensation benefits?

No. But you have the right to have an attorney represent you. In most cases benefits are paid without an attorney or the Workers' Compensation Court becoming involved.

The law does not require you to have an attorney in order to file a motion or petition (lawsuit) and receive a hearing before the court, and you may represent yourself at trial. No one other than you or an attorney may represent you. If you represent yourself you will be held to the same legal standards as parties who do have an attorney. If you choose to have an attorney it is your responsibility to contact the attorney and make the arrangements. The court may not do this for you, and the court may not recommend an attorney.

This information sheet has been prepared by the Nebraska Workers' Compensation Court to answer some of the commonly asked questions concerning workers' compensation. Further inquiries should be directed to:

**Nebraska Workers' Compensation Court
P.O. Box 98908
Lincoln, NE 68509-8908**

800-599-5155 or 402-471-6468

<http://www.nol.org/workcomp/>

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